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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

JOHANNES F.M. D'ACHARD VAN ENSCHUT

Serial No. 09/022,132

Filed: FEBRUARY 11, 1998

Atty. Docket

PHN 16,219A

Group Art Unit: 3714

Examiner: C. White

Conf. No. 5325

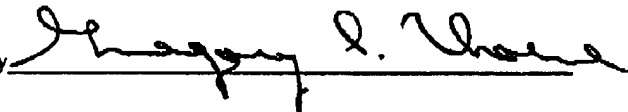
TITLE: METHOD FOR OPERATING A VIDEO GAME WITH BACKFEEDING A  
VIDEO IMAGE OF A PLAYER, AND A GAME ARRANGED FOR PRACTISING THE  
METHOD

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION  
TO THE UNITED STATES PATENT AND TRADEMARK OFFICE

(703) 872-9306

I certify that this document consisting of 11 pages is being  
transmitted via facsimile to Examiner C. White of the United  
States Patent and Trademark Office at the telephone number set  
forth above on February 17, 2004.

By 

REQUEST UNDER RULE 1.8(b) TO CONSIDER NOTICE OF APPEAL AS  
TIMELY FILED, AND THE AMENDMENT AND APPEAL BRIEF FILED ON  
DECEMBER 27, 2003 AS TIMELY AND PROPER

Sir:

The Applicants request that the Patent and Trademark Office  
enter a Notice of Appeal that was previously mailed to the Patent  
and Trademark Office with a valid Certificate of Mailing on

November 12, 2003 and consider the Notice of Appeal as timely filed on said date. A Second Advisory Action Mailed on January 30, 2004 was received from the Patent and Trademark Office that states in effect that the Patent and Trademark Office never received a Notice of Appeal. It is submitted that the Notice of Appeal was timely mailed to the Patent and Trademark Office on November 12, 2003 (attached as Exhibit 1) in response to an Advisory Action mailed October 14, 2003 and a Final Office Action mailed on August 20, 2003.

Specifically, on November 12, 2003, in response to the Advisory Action and the Final Office Action, Applicant submitted to the Patent and Trademark Office a Notice of Appeal; a certificate of mailing (see, first page of Exhibit 1); and an acknowledgment of receipt postcard (see, Exhibit 2).

The Certificate of Mailing on the Notice of Appeal certifies that the Notice of Appeal was properly mailed on November 12, 2003 (see, front page of Notice of Appeal). The mailing date of November 12, 2003 is well within the three months permitted to respond to the Final Office Action of August 20, 2003. Thus, the proper form and response were timely mailed as permitted by 37 C.F.R. 1.8(a).

The acknowledgment of receipt postcard (see, Exhibit 2) bears a Patent and Trademark Office mailroom stamp imprinted on

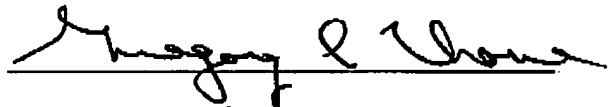
it indicating that the documents were received by the Patent and Trademark Office mailroom on November 17, 2003.

Attached is a declaration of Gregory L. Thorne, Esq. supporting this Request (see Exhibit 3).

Accordingly, it is requested that the Notice of Appeal filed on November 12, 2003 be entered and the Amendment and Appeal Brief filed on December 27, 2003 be considered as timely and proper. Further, it is respectfully requested that the Examiner and the Appeal Board enter the Amendment and Appeal Brief for consideration.

In the event that there are any difficulties regarding this matter, it is requested that the undersigned be contacted at the telephone number indicated below.

Respectfully submitted,



Gregory L. Thorne  
Senior Patent Counsel  
Reg. No. 39,398

Enclosures: Exh. 1: Copy of November 12, 2003 Notice of Appeal  
Exh. 2: Copy of acknowledgment of receipt postcard  
Exh. 3: Declaration of Gregory L. Thorne

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MAIL STOP: AF

DOCKET NO. N16,219A DIV. THOR SER. NO. 09/022/32PLEASE DATE STAMP AND RETURN TO  
ACKNOWLEDGE RECEIPT OF NOTED DOCUMENTS

Application.....	<input type="checkbox"/>	Amendment.....	<input type="checkbox"/>
Pages of		Issue Fee.....	<input type="checkbox"/>
spec., claims & abs.		Notice of Appeal....	<input checked="" type="checkbox"/>
Con. Doc.....	<input type="checkbox"/>	Extension.....	<input type="checkbox"/>
Drawings	Inf. <input type="checkbox"/>	Mailing Cert.....	<input checked="" type="checkbox"/>
No. Sh.....	For. <input type="checkbox"/>	Assignment.....	<input type="checkbox"/>
Power of Att.....	<input type="checkbox"/>	Decl. - signed.....	<input type="checkbox"/>
MLG. Date <u>Nov. 12, 2003</u>		- unsigned... <input type="checkbox"/>	



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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Atty. Docket

JOHANNES F.M. D'ACHARD VAN ENSCHUT

PHN 16,219A

Serial No. 09/022,132

Group Art Unit: 3713

Filed: FEBRUARY 11, 1998

Examiner: C. White

Conf. No. 5325

TITLE: METHOD FOR OPERATING A VIDEO GAME WITH BACKFEEDING A VIDEO IMAGE OF A PLAYER, AND A GAME ARRANGED FOR PRACTISING THE METHOD

DECLARATION OF GREGORY L. THORNE IN SUPPORT OF REQUEST UNDER RULE 1.8(b) TO CONSIDER NOTICE OF APPEAL AS TIMELY FILED, AND THE AMENDMENT AND APPEAL BRIEF FILED ON DECEMBER 27, 2003 AS TIMELY AND PROPER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Gregory L. Thorne, declare as follows:

1. I am an attorney for the Applicant of this patent application, and am registered to practice before the U.S. Patent and Trademark Office.

2. This declaration is made in support of a Rule 1.8(b) request to consider Notice of Appeal as timely filed, and the Amendment and Appeal Brief filed on December 27, 2003 as timely and proper and is filed concurrently herewith.

3. In response to an Advisory Action dated October 14, 2003 and a Final Office Action dated August 20, 2003, on November 12, 2003, the declarant prepared and submitted to the Patent and Trademark Office a Notice of Appeal (see, Exhibit 2).

4. The Amendment, was placed in an envelope addressed to Commissioner for Patents, Alexandria, VA 22313. The appropriate first class postage was placed on the envelope, using the office postage meter, and the envelope was then deposited with the U.S. Postal Service.

5. The certificate of mailing submitted with the Notice of Appeal certifies that the response was properly mailed on November 12, 2003.

6. The mailing date of November 12, 2003 is well within the three months permitted to respond to the Final Office Action without requiring any extension of time fees.

7. The acknowledgment of receipt postcard (see, Exhibit 3) bears a Patent and Trademark Office mailroom stamp imprinted on it indicating that the Notice of Appeal was received by the United States Patent and Trademark Office mailroom on November 17, 2003.

8. Therefore, it is submitted that the Notice of Appeal was timely mailed as permitted by 37 C.F.R. 1.8(a).

9. The declarant respectfully submits that the Notice of Appeal was timely filed in accordance with the Patent and Trademark Office Practice. The fact that the Notice of Appeal did not reach the Examiner in a timely fashion was not due to any fault on the part of the Applicants.

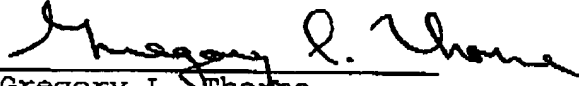
10. An Amendment After Final Office Action and Appeal Brief was mailed on December 27, 2003 by Robert McDermott, attorney for the Applicant. This Amendment After Final Office

Action and Appeal Brief where timely and proper in light of the November 12, 2003 filing date of the Notice of Appeal.

10. The declarant respectfully requests that the Notice of Appeal filed on November 12, 2003 be entered and the Amendment and Appeal Brief filed on December 27, 2003 be considered as timely and proper. Further, it is respectfully requested that the Amendment and Appeal Brief be entered for consideration by the Examiner and the Appeal Board.

11. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

Dated: 2/17/04

  
Gregory L. Thorne  
Senior Patent Counsel  
Reg. No. 39,398

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